

**Department of Legislative Services**  
Maryland General Assembly  
2022 Session

**FISCAL AND POLICY NOTE**  
**Third Reader**

Senate Bill 993

(Senator Eckardt)

Judicial Proceedings

Rules and Executive Nominations

---

**Local Government Tort Claims Act - Definition of Local Government**

---

This bill alters the definition of “local government” under the Local Government Tort Claims Act (LGTCa) to include Delmarva Community Services, Inc. (DCS) in Dorchester County and the Maryland Association of Counties (MACo) Pooled OPEB Trust Fund.

---

**Fiscal Summary**

**State Effect:** The bill is not expected to materially affect State finances or operations.

**Local Effect:** Minimal decrease in local expenditures due to the provisions related to the MACo Pooled OPEB Trust Fund. The provisions addressing DCS are not anticipated to materially affect Dorchester County finances or operations. Revenues are not affected.

**Small Business Effect:** None.

---

**Analysis**

**Current Law:** LGTCa defines local government to include counties, municipal corporations, Baltimore City, and various agencies and authorities of local governments such as community colleges, county public libraries, special taxing districts, nonprofit community service corporations, sanitary districts, housing authorities, and commercial district management authorities. LGTCa limits the liability of a local government to \$400,000 per individual claim and \$800,000 per total claims that arise from the same occurrence for damages from tortious acts or omissions (including intentional and

constitutional torts). Separate liability limits for specified torts involving law enforcement officers take effect July 1, 2022.

LGTCa further establishes that the local government is liable for the tortious acts or omissions of its employees acting within the scope of employment. Thus, LGTCa prevents local governments from asserting a common law claim of governmental immunity from liability for such acts or omissions of its employees.

LGTCa contains specified notice requirements for actions for unliquidated damages against a local government or its employees. These requirements do not apply to actions against specified nonprofit corporations included in the definition of a “local government” under LGTCa.

**Local Expenditures:** Local expenditures for local governments that are members of the MACo Pooled OPEB Trust Fund decrease minimally due to reduced costs for insurance coverage. The bill’s provisions regarding DCS are not expected to materially affect Dorchester County finances or operations.

#### *Maryland Association of Counties Pooled OPEB Trust Fund*

State law allows governments to invest funds toward their long-term retiree health care liabilities when those funds are withdrawn from the ordinary annual budgeting process and placed into a trust. MACo created the Pooled OPEB Trust Fund to assist and serve its members who may not have sufficient investments to merit establishing their own trusts with the necessary investment advisors and other associated personnel, services, and requirements. Current members of the trust include various smaller local governments and affiliated entities, such as libraries and sanitary commissions. The trustees of the fund are local government employees and oversee the investment strategy for the pooled funds.

Pooling funds in the trust allows its members to share overhead costs and receive more favorable investment rates. One of the overhead costs is insurance costs for the trustees (primarily “errors and omissions” insurance). MACo advises that the private market charges thousands of dollars each year for this insurance, and the trust will be able to obtain less expensive coverage, with savings of a few thousand dollars annually, through the Local Government Insurance Trust (LGIT). However, in order to obtain coverage through LGIT, the trust must be a “local government” under LGTCa.

#### *Delmarva Community Services, Inc.*

Founded in May 1974 as the Dorchester Development Unit, DCS offers transportation services, senior center services, meal deliveries, and residential and day services for the disabled population.

DCS's primary funding sources are federal and State grants and private donations. DCS advises that it receives less than 1% of its funding from Dorchester County. Inclusion in LGTCA would allow DCS to obtain less expensive insurance coverage through LGIT. Since DCS pays for its insurance coverage and does not receive significant funding from Dorchester County, any reduction in insurance costs for DCS is not expected to materially affect Dorchester County finances or operations. While DCS does not have a recent quote for insurance coverage through LGIT, the organization notes that its current automobile insurance policy, which covers all of the organization's vehicles, costs \$196,397 per year.

---

### **Additional Information**

**Prior Introductions:** None.

**Designated Cross File:** HB 1474 (Delegate Sample-Hughes) - Judiciary.

**Information Source(s):** Charles, Frederick, and Montgomery counties; City of Havre de Grace; Maryland Association of Counties; Delmarva Community Services, Inc.; Maryland Municipal League; Department of Legislative Services

**Fiscal Note History:** First Reader - March 15, 2022  
fnu2/jkb Third Reader - April 12, 2022

---

Analysis by: Amy A. Devadas

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510